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United Nations

Report of the Human Rights Council

Twelfth special session (15 and 16 October 2009)

General Assembly

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Sixty-fourth Session
Supplement No. 53A

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(15 and 16 October 2009)

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Note

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The present volume contains the resolutions, decisions and President's statements adopted by the Human Rights Council at its twelfth special session, on 15 and 16 October 2009.

[22 October 2009]

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I. Decision and resolution adopted by the Council at its twelfth special session

S-12/101. Decision adopted by the Human Rights Council

At its second meeting, on 16 October 2009, the Human Rights Council decided to request the President of the Council to transmit urgently resolution S-12/1, contained in the report of the Council on its twelfth special session (A/HRC/S-12/1), to the General Assembly for its consideration during the main part of its sixty-fourth session.

2nd meeting
16 October 2009

[Adopted without a vote.]

S-12/1. The human rights situation in the Occupied Palestinian Territory, including East Jerusalem

A

The Human Rights Council,

Recalling the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights,

Affirming the responsibility of the international community to promote human rights and ensure respect for international law,

Emphasizing the particularity of The Occupied East Jerusalem in its rich religious and cultural heritage,

Recalling all relevant United Nations resolutions including Security Council resolutions on Occupied East Jerusalem,

Deeply concerned at the actions by Israel undermining the sanctity and inviolability of religious sites in the Occupied Palestinian Territory including East Jerusalem,

Deeply concerned also at the policy of closure and severe restrictions of Israel, including the permit regime, which continue to be imposed on the movement of Palestinians hindering their free access to their Christian and Muslim holy sites, including Al- Aqsa Mosque,

1. *Strongly condemns* all policies and measures taken by Israel, the occupying Power, including those limiting access of Palestinians to their properties and holy sites particularly in Occupied East Jerusalem, on the basis of national origin, religion, sex, age or any other discriminatory ground, which are in grave violation of the Palestinian People's civil, political, economic, social and cultural rights;

2. *Condemns further* the recent violations of human rights by Israel in Occupied East Jerusalem, particularly the confiscation of lands and properties, the demolishing of houses and private properties, the construction and expansion of settlements, the continuous construction of the separation Wall, changing the demographic and geographic character of East Jerusalem, the restrictions on the freedom of movement of the Palestinian citizens of East Jerusalem, as well as the

continuous digging and excavation works in and around Al-Aqsa mosque and its vicinity;

3. *Demands* Israel, the occupying Power, to respect the religious and cultural rights in the Occupied Palestinian Territory as provided for in the Universal Declaration of Human Rights, the core international human rights instruments, the Hague Conventions, and the Geneva Conventions, and to allow Palestinian citizens and worshippers unhindered access to their properties and religious sites therein;

4. *Also demands* that Israel, the occupying Power, immediately cease all digging and excavation works and activities beneath and around Al-Aqsa Mosque and its vicinity, and refrain from any acts or operations that may endanger the structure or foundations or change the nature of holy sites both Christian and Islamic in the Occupied Palestinian Territory, including East Jerusalem;

5. *Requests* the United Nations High Commissioner for Human Rights, pursuant to resolution S-9/1 of 12 January 2009 and in the context of her periodic reports, to monitor, document and report on the state of implementation by Israel, the occupying Power, of its human rights obligations in and around East Jerusalem;

B

The Human Rights Council,

Guided by the principles and objectives of the Charter of the United Nations and the Universal Declaration of Human Rights,

Considering that the promotion of respect for the obligations arising from the Charter and other instruments and rules of international law is among the basic purposes and principles of the United Nations,

Reaffirming the right of the Palestinian people to self-determination and the inadmissibility of the acquisition of land by the use of force, as enshrined in the Charter of the United Nations,

Acknowledging that peace, security, development and human rights are the pillars of the United Nations system,

Affirming the applicability of international human rights law and the international humanitarian law, namely the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, to the Occupied Palestinian Territory, including East Jerusalem,

Expressing serious concern at the lack of implementation by the occupying Power, Israel, of previously adopted resolutions and recommendations of the Council relating to the human rights situation in the Occupied Palestinian Territory, including East Jerusalem,

Recalling its resolution S-9/1 of 12 January 2009, in which the Council decided to dispatch an urgent, independent international fact-finding mission, and its call upon the occupying Power, Israel, not to obstruct the process of investigation and to fully cooperate with the mission,

Condemning all targeting of civilians and stressing the urgent need to ensure accountability for all violations of international human rights law and international humanitarian law to prevent further violations,

1. *Condemns* the non-cooperation by the occupying Power, Israel, with the independent international fact-finding mission;

2. *Welcomes* the report of the Independent International Fact-Finding Mission (A/HRC/12/48);

3. *Endorses* the recommendations contained in the report of the Independent International Fact-Finding Mission, and calls upon all concerned parties including United Nations bodies, to ensure their implementation in accordance with their respective mandates;

4. *Recommends that* the General Assembly consider the report of the Independent International Fact-Finding Mission, during the main part of its sixty-fourth session;

5. *Requests* the United Nations Secretary-General to submit to the Council, at its thirteenth session, a report on the status of implementation of paragraph 3. above;

C

The Human Rights Council,

Emphasizing that international human rights law and international humanitarian law are complementary and mutually reinforcing,

Recalling the obligations of the High Contracting Parties to the Fourth Geneva Convention, and *reaffirming* that each High Contracting Party to the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War is under the obligation to respect and ensure the respect for the obligations arising from that Convention,

Stressing that the right to life constitutes the most fundamental of all human rights,

Recognizing that the siege by Israel imposed on the occupied Gaza Strip, including its closure of border crossings and the cutting of the supply of fuel, food and medicine, constitutes collective punishment of Palestinian civilians and leads to disastrous humanitarian and environmental consequences,

1. *Welcomes* the first periodic report of the United Nations High Commissioner for Human Rights on the implementation of the Human Rights Council resolution S-9/1(A/HRC/12/37);

2. *Endorses* the recommendations contained in the first periodic report of the High Commissioner, and calls upon all concerned parties including United Nations bodies to ensure their implementation in accordance with their respective mandates;

3. *Requests* the High Commissioner for Human Rights to submit to the Council, at its thirteenth session, a report on the status of implementation of this resolution;

4. *Decides* to follow up on the implementation of section A, section B and section C of the present resolution at its thirteenth session.

2nd meeting
16 October 2009

[Adopted by a recorded vote of 25 to 6, with 11 abstentions. The voting was as follows:

In favour:	Argentina, Bahrain, Bangladesh, Bolivia, Brazil, Chile, China, Cuba, Djibouti, Egypt, Ghana, India, Indonesia, Jordan, Mauritius, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Zambia;
Against:	Hungary, Italy, Netherlands, Slovakia, Ukraine, United States of America;
Abstaining:	Belgium, Bosnia and Herzegovina, Burkina Faso, Cameroon, Gabon, Japan, Mexico, Norway, Republic of Korea, Slovenia, Uruguay.]

II. Organization of work of the twelfth special session

1. Pursuant to paragraph 10 of General Assembly resolution 60/251, and in accordance with rule 6 of the rules of procedure of the Human Rights Council as contained in the annex to Council resolution 5/1, the Council shall hold special sessions, when needed, at the request of a member of the Council with the support of one third of the membership of the Council.

2. On 13 October 2009, the secretariat of the Council received a request for the convening of a special session of the Council on the human rights situation in the Occupied Palestinian Territory, including East Jerusalem.

3. The above-mentioned request was supported by the following 19 States Members of the Council: Bahrain, Bangladesh, Bolivia (Plurinational State of), China, Cuba, Djibouti, Egypt, Gabon, Indonesia, Jordan, Mauritius, Nicaragua, Nigeria, Pakistan, the Philippines, Qatar, Saudi Arabia, Senegal and South Africa.

4. The request was also supported by the following observer States of the Council: Algeria, Iran (Islamic Republic of), Kuwait, Lebanon, the Libyan Arab Jamahiriya, Malaysia, Morocco, Oman, Palestine, the Syrian Arab Republic, Tunisia, Turkey, the United Arab Emirates, Venezuela (Bolivarian Republic of), Viet Nam and Yemen.

5. As more than one third of the membership of the Council supported the above-mentioned request, the Council convened informative consultations on the matter on 14 October 2009 and decided to convene a special session of the Council on 15 October 2009.

A. Opening and duration of the session

6. The Council held its twelfth special session at the United Nations Office at Geneva on 15 and 16 October 2009. It held two meetings during the session.

7. The twelfth special session was opened by the President of the Council.

B. Attendance

8. The special session was attended by representatives of States Members of the Council, observer States of the Council, observers for non-Member States of the United Nations and other observers, as well as observers for United Nations entities, specialized agencies and related organizations, intergovernmental organizations and other entities, national human rights institutions and non governmental organizations.

C. Officers

9. At its first organizational meeting of the fourth cycle, on 19 June 2009, the Council elected the following officers, who also served as officers for the twelfth special session:

President:	Alex Van Meeuwen (Belgium)
Vice-Presidents:	Andrej Logar (Slovenia) Dyan T. Djani (Indonesia) Carlos Portales (Chile)
Vice-President and Rapporteur:	Hisham Badr (Egypt)

D. Organization of work

10. Pursuant to paragraph 124 of the annex to Council resolution 5/1, an open ended informative consultation was held on 14 October 2009 in preparation for the twelfth special session.

11. At its 1st meeting, on 15 October 2009, the Council considered the organization of its work, including speaking time limits, which would be three minutes for statements by States Members of the Council and concerned countries, and two minutes for statements by observers for non-Member States of the Council and other observers, including United Nations entities, specialized agencies and related organizations, intergovernmental organizations and other entities, national human rights institutions and non-governmental organizations. The list of speakers would be drawn up in chronological order of registration. The concerned parties would be given the floor first, followed by States Members of the Council, observer States and observers for United Nations entities, specialized agencies and related organizations, intergovernmental organizations and other entities, and observers of national human rights institutions and non-governmental organizations.

12. The special session was conducted in accordance with the relevant provisions contained in Council resolution 5/1.

E. Decision, resolution and documentation

13. The decision and resolution adopted by the Council at its twelfth special session are reproduced in chapter I of the present report.

14. The list of documents issued for the twelfth special session is contained in the annex to the present report.

F. Statements

15. At the 1st meeting, on 15 October 2009, the United Nations High Commissioner for Human Rights made a statement.

16. At the same meeting, the representatives of Israel and Palestine made statements as concerned parties.

17. Also at the same meeting, statements were made by the following:

(a) Representatives of States Members of the Council: Bahrain, Brazil, Chile, China, Cuba, Egypt (also on behalf of the Non-Aligned Movement), France, India, Indonesia, Italy, Japan, Jordan, Mauritius, Mexico, Netherlands, Norway, Nicaragua, Nigeria (on behalf of the Group of African States), Pakistan (on behalf of the Organization of the Islamic Conference), Philippines, Qatar, Republic of Korea, Russian Federation, Saudi Arabia, Slovenia, South Africa, Sweden (on behalf of the European Union), Tunisia[1] (on behalf of the Group of Arab States), United Kingdom of Great Britain and Northern Ireland, United States of America;

(b) Representatives of the following observer States: Algeria, Democratic People's Republic of Korea, Malaysia, Sudan, United Arab Emirates, Venezuela (Bolivarian Republic of), Yemen.

18. At the 2nd meeting, on 16 October 2009, statements were made by the following:

[1] Observer of the Council speaking on behalf of Member and observer States.

(a) Representatives of the following observer States: Afghanistan, Australia, Canada, Costa Rica, Iceland, Iran (Islamic Republic of), Kuwait, Lebanon, Libyan Arab Jamahiriya, Maldives, Morocco, Panama, Syrian Arab Republic, Turkey, Switzerland;

(b) Observers for intergovernmental organizations: African Union, League of Arab States, Organization of the Islamic Conference;

(c) Observer for a national human rights institution: Palestinian Independent Commission for Human Rights;

(d) Observers for non-governmental organizations: Action Canada for Population and Development, ADALAH – Legal Center for Arab Minority Rights in Israel, Al-Haq, Law in the Service of Man (also on behalf of Badil Resource Center for Palestinian Residency and Refugee Rights and Defense for Children International), Amnesty International, Badil Resource Center for Palestinian Residency and Refugee Rights, B'nai B'rith International, Cairo Institute for Human Rights Studies, Human Rights Watch, International Commission of Jurists, International Committee for the Respect and Application of the African Charter on Human and People's Rights (also on behalf of Action internationale pour la paix et le développment dans la Région des Grands Lacs), International Federation of Human Rights Leagues (also on behalf of the Palestinian Centre for Human Rights), International Organization for the Elimination of All Forms of Racial Discrimination, Mouvement contre le Racisme et pour l'Amitié entre les Peuples, Nord-Sud XXI, Palestinian Centre for Human Rights, United Nations Watch, Union of Arab Jurists (also on behalf of the Arab Lawyers Union, the Arab Organization for Human Rights, the General Arab Women Federation, International Educational Development, Inc. and Ittijah: Union of Arab Community-based Organizations), Women's International League for Peace and Freedom (also on behalf of the International Youth and Student Movement for the United Nations), World Union for Progressive Judaism (also on behalf of the Simon Wiesenthal Center, Inc.)

G. Action on the draft proposal

19. At the 2nd meeting, on 16 October 2009, the representative of Pakistan (also on behalf of the Group of African States, the Group of Arab States, the Organization of the Islamic Conference and the Non-Aligned Movement) introduced draft resolution A/HRC/S-12/L.1, sponsored by Egypt (on behalf of the Non-Aligned Movement, with the exception of Chile, Cameroon, Guatemala and Panama), Nigeria (on behalf of the Group of African States, with the exception of Cameroon), Pakistan (on behalf of the Organization of the Islamic Conference), Palestine and Tunisia (on behalf of the Group of Arab States).

20. At the same meeting, the representative of Pakistan orally revised the draft resolution by adding an eighth preambular paragraph to section B.

21. Also at the same meeting, statements were made by the representatives of Israel and Palestine as concerned parties.

22. At the same meeting, statements in explanation of vote before the vote were made by the representatives of Argentina, Brazil, Chile, Mexico, Norway, Slovenia, the United States of America and Uruguay.

23. Also at the same meeting, at the request of the representative of the United States of America, a recorded vote was taken on the draft resolution, as orally

revised. The draft resolution was adopted by 25 votes in favour, 6 against and 11 abstentions. The voting was as follows:

In favour:	Argentina, Bahrain, Bangladesh, Bolivia (Plurinational State of), Brazil, Chile, China, Cuba, Djibouti, Egypt, Ghana, India, Indonesia, Jordan, Mauritius, Nicaragua, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Zambia;
Against:	Hungary, Italy, Netherlands, Slovakia, Ukraine, United States of America;
Abstaining:	Belgium, Bosnia and Herzegovina, Burkina Faso, Cameroon, Gabon, Japan, Mexico, Norway, Republic of Korea, Slovenia, Uruguay.

24. For the text of the resolution as adopted, see chapter I.

25. At the same meeting, statements in explanation of vote after the vote were made by the representatives of Belgium, China, India, Italy, the Netherlands, the Russian Federation and Slovakia.

26. Also at the same meeting, the representative of Algeria made general remarks in relation to the adopted resolution.

III. Report of the Human Rights Council on its twelfth special session

27. At the 2nd meeting, on 16 October 2009, the report was adopted ad referendum and the Rapporteur was entrusted with its finalization.

ANNEX

List of documents issued for the twelfth special session of the Council

Documents issued in the general series

A/HRC/S-12/1	Report of the Human Rights Council on its twelfth special session

Documents issued in the limited series

A/HRC/S-12/L.1	The human rights situation in the Occupied Palestinian Territory, including East Jerusalem: draft resolution
A/HRC/S-12/L.1/Corr.1	Corrigendum
A/HRC/S-12/L.1/Corr.2	Corrigendum

Documents issued in the non-governmental organizations series

A/HRC/S-12/NGO/1	Written statement submitted by the Association of World Citizens (AWC)
A/HRC/S-12/NGO/2	Written statement submitted by Nord Sud XXI
A/HRC/S-12/NGO/3	Joint written statement submitted by the International Youth and Student Movement for the United Nations (ISMUN), le Centre Europe Tiers-Monde (CETIM), the Union of Arab Jurists, the International Organization for the Elimination of all Forms of Racial Discrimination (EAFORD), Nord-Sud XXI, the International Association of Democratic Lawyers (IADL), ITTIJAH: Union of Arab Community-based Organizations, the Women's International League for Peace and Freedom (WILPF), the Arab Lawyers Union (ALU), the General Federation of Iraqi Women, the General Arab Women Federation (GAWF), the Arab Organization for Human Rights (AOHR), the Indian Movement Tupaj Amaru (MITA), the United Towns Agency for the North-South Cooperation, the Indigenous World Association (IWA), the International Committee For the Respect and Application of the African Charter on Human and People's Rights (ICRAC), l'Action internationale pour la paix et le développement dans la Région des Grands Lacs (AIPD), International Educational Development (IED), Inc., the Indian Council of South America (CISA), the International Human Rights Association of American Minorities (IHRAAM)
A/HRC/S-12/NGO/4	Joint written statement submitted by the Palestinian Centre for Human Rights (PCHR), the Badil Resource Centre for Palestinian Residency and Refugee Rights, Al-Haq Law in the Service of Man, Ittijah: Union of Arab Community Based Associations, Defence for Children International (DCI), Adalah – Legal Center for Arab Minority Rights in Israel, the International Federation of Human Rights Leagues (FIDH)